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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.404 OF 1989

The State of Maharashtra, .
Thru' The Special Land Acquisition .
Officer, Metro Centre No.I, Panvel ...Appellant
V/s.
Mahadeo Shankar Mhatre, .
Thru' Prakash Vasudeo Devdhar ...Respondent

Ms.G.P. Mulekar, AGP, for the Appellant-State.

WITH
FIRST APPEAL NO.460 OF 1990

Mahadeo Shankar Mhatre, .
Thru' Prakash Vasudeo Devdhar ...Appellant
V/s.
The State of Maharashtra, .
Thru' The Special Land Acquisition .
Officer, Metro Centre No.I, Panvel ...Respondent

Mr.R.L. Patil, Advocate, for the Appellant.
Ms.G.P. Mulekar, AGP, for the Respondent-State.

CORAM : ABHAY S. OKA, J.
DATE : 13TH FEBRUARY, 2008.

ORAL JUDGMENT :-

1. These two Appeals can be conveniently disposed of by a common Judgment and Order as the challenge in these Appeals is to the same Judgment and Award under Section 18 of the Land Acquisition Act, 1894.

2. The acquisition relates to the lands admeasuring 5,460 sq.meters situated at Village Panvel, Taluka Panvel, District Raigad, which were notified by a notification dated 3rd February, 1970

under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act").

3. An Award was made under Section 11 of the said Act on 3rd March, 1986. By the impugned Judgment and Award, the Reference Court has fixed the market value @ Rs.15/- per sq.meter. The First Appeal No.460 of 1990 is filed by the original claimant for enhancement and First Appeal No.404 of 1989 is filed by the State of Maharashtra praying for quashing the impugned Award. On the oral prayer made by the learned AGP, the First Appeal No.404 of 1989 is restored to the file by setting aside the order dated 8th February, 2002.

4. The learned AGP appearing for the appellant submitted that there is no evidence adduced by the claimant for establishing that the market value of the acquired land was Rs.15/- per sq.meter on 3rd February, 1970. His submission is that the market value awarded is exorbitant. The learned Advocate for the claimant has placed reliance on various decisions of this Court and has submitted that the market value of the acquired land on the relevant date was much more than Rs.20/- per sq.meter.

5. I have carefully considered the submissions.

My attention has been invited to a decision of Division Bench of this Court in the case of Nama Padu Hudar and Ors. V/s. State of Maharashtra (First Appeal No.754 of 1986) with other connected First Appeals. The said group of Appeals was decided by a Division Bench of this Court [Coram : S.W. Puranik and D.J. Moharir, JJ] on 25th and 26th February, 1993. The Division Bench dealt with a group of Appeals arising out of Awards under Section 18 of the said Act relating to large numbers of lands situated at villages Panvel and Kamothe, Taluka Panvel, District Raigad which were notified under Section 4 of the said Act on 3rd February, 1970 for the public purpose of setting up of satellite city of Navi Mumbai. The Division Bench divided the lands into five different categories for the purposes of fixing the market value. The division of lands subject matters of the Appeals before the Division Bench was made on the basis of the distance of the acquired lands either from Bombay-Pune National Highway or from the Zilla Parishad Road or Gaothan. Higher market value was fixed in case of lands closer to the highway. The decision of the Division Bench has attained finality in the sense that no Appeal was preferred against the said Judgment. It must be also noted here that the said decision of the Division

Bench has been expressly approved by the Apex Court in its Judgment dated 6th March, 2006 in Civil Appeal No.1557 of 2006 (Shantadevi H. Ruparel V/s. Special Land Acquisition Officer & Anr.). In fact the Apex Court directed that compensation shall be awarded to the land subject matter of the Appeal before it in terms of the decision of the Division Bench in the case of Nama Padu Hudar (supra). It is an admitted position that large tracts of lands situated at Villages Panvel, Kamothe, Taloja, Pendhar, Ulwe and other villages in Taluka Panvel of District Raigad were notified for acquisition by the same notification dated 3rd February, 1970 for the same public purpose. The lands in these villages which were subject matter of acquisition were agricultural lands.

6. Therefore, the decision of the Division Bench in the case of Nama Padu Hudar will be certainly relevant for deciding the market value in the case in hand, as the acquired land subject matter of the case in hand is situated at Village Panvel. The acquired land was also acquired alongwith the lands subject matter of the Appeals before the Division Bench in the case of Nama Padu Hudar. It is, therefore, obvious that the market value in the present case will be governed by the said decision of the Division Bench.

The categorisation made by the Division Bench is as under:-

Group No.	First Appeal No.	S.No.	H.No.	Area Sq.Mt.	Rate Granted P.S.M. Rs.Ps.
I.	754/1986	671	1(Part)	8240	25.00
Abutting					
the Highway	763/1986	694	2	5870	25.00
		698	2	510	25.00
		704	7	1060	25.00
		704	2	3310	25.00
II.	751/1986	598	2/5	4270	23.00
Within	(Part)				
800 Metres	756/1986	665	1B	2450	23.00
		665	1D	1800	23.00
		663	1/5	1340	23.00
		660	3	5830	23.00
III.	753/1986	614	2	3100	22.00
Abutting	751/1986	617	2	4350	22.00
Kamothe Z.P. (Part)					

Road to 1200 Metres	752/1986	548	7(Part)	2500	22.00

Group No.	**First Appeal No.**	**S.No.**	**H.No.**	**Area Sq.Mt.**	**Rate Granted P.S.M. Rs.Ps.**
IV-A 800 Mtrs.to 2200 Mtrs. from Bombay-Poona Highway	755/1986	209	9	4560	20.00
		213	10	1900	20.00
IV-B 200 Mtrs. from Z.P. Rd. & Gaothan to 640 Mtrs. from Z.P. Rd. & Gaothan	743/1986	240	2	1900	20.00
		274	2	4760	20.00

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7. I have perused the notes of evidence and other documents on record. I have perused the report of Mr.Jeevan Narayan Kulkarni, a valuer, which is at Exhibit-34. The said report discloses that the acquired lands are at the distance of 800 meters from Bombay-Pune National Highway. Mr.Kulkarni has been examined before the Trial Court. There is hardly any challenge in his cross-examination on this aspect. Therefore, the acquired lands will fall in category IV-A as provided in the decision of the Division Bench in the case of Nama Padu Hudar (supra). Thus, the Appeal filed by the claimant must succeed and the Appeal filed by the State of Maharashtra will have to be dismissed.

8. Hence, I pass the following order:-

"O R D E R"

(a). First Appeal No.404 of 1989 is dismissed with no orders as to costs.

(b). First Appeal No.460 of 1990 is allowed. The impugned Judgment and Award

dated 18th July, 1988 is modified by holding that the claimant will be entitled to the market value calculated at the rate of Rs.20/- per sq.meter. In addition to the market value, the claimant will be entitled to all statutory benefits under Sections 23(1-A), 23(2) and (28) of the Land Acquisition Act, 1894. The claimant will be entitled to the costs of the Reference from the State Government.

(c). The claimant will be entitled to costs of First Appeal No.460 of 1990 from the State of Maharashtra.

(d). The exercise of calculating the amount payable as per this Judgment will be completed by the Trial Court within a period of four months from the date of receipt of writ of this order.

(e). Writ to be sent down expeditiously.

[ABHAY S. OKA, J.]